

FEDERAL CAUSTIC POISON ACT

[Chapter 489, 44 Stat. 1406, March 4, 1927]

[As amended through Public Law 91–113, November 6, 1969]

【Currency: This publication is a compilation of the text of Chapter 489 of the 69th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

AN ACT To safeguard the distribution and sale of certain dangerous caustic or corrosive acids, alkalies, and other substances in interstate and foreign commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the Federal Caustic Poison Act.

DEFINITIONS

SEC. 2. As used in this Act, unless the context otherwise requires—

(a) The term “dangerous caustic or corrosive substance” means:

(1) Hydrochloric acid and any preparation containing free or chemically unneutralized acid (HCl) in a concentration of 10 per centum or more;

(2) Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid (H₂SO₄) in a concentration of 10 per centum or more;

(3) Nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of 5 per centum or more;

(4) Carbolic acid (C₆H₅OH), otherwise known as phenol, and any preparation containing carbolic acid in a concentration of 5 per centum or more;

(5) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of 10 per centum or more;

(6) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 per centum or more;

(7) Acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC₂H₃O₂) in a concentration of 20 per centum or more;

(8) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield 10 per centum or more by weight of available chlorine, excluding calx chlorinata, bleaching powder, and chloride of lime;

(9) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of 10 per centum or more;

(10) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of 10 per centum or more;

(11) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO_3) in a concentration of 5 per centum or more; and

(12) Ammonia water and any preparation containing free or chemically uncombined ammonia (NH_3), including ammonium hydroxide and "hartshorn," in a concentration of 5 per centum or more.¹

(b) The term "misbranded parcel, package, or container" means a retail parcel, package, or container of any dangerous caustic or corrosive substance not bearing a conspicuous, easily legible label or sticker containing:

(1) The common name of the substance;

(2) The name and place of business of the manufacturer, packer, seller, or distributor;

(3) The word "poison," running parallel with the main body of reading matter on the label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed gothic capital letters, the letters to be not less than 24-point size unless there is on the label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker; and

(4) Directions for treatment in case of accidental personal injury by any dangerous caustic or corrosive substance, except that such directions need not appear on labels or stickers, on parcels, packages, or containers at the time of shipment or of delivery for shipment by manufacturers and wholesalers for other than household use.

(c) The term "interstate or foreign commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia.

(d) This Act is not to be construed as modifying or limiting in any way the right of any person to manufacture, pack, ship, sell, barter, and distribute dangerous caustic or corrosive substances in parcels, packages, or containers, labeled as required by this Act.

¹ For the purpose of determining whether an article containing ammonia is subject to the Federal Caustic Poison Act, the ammonia content is to be calculated as NH_3 . §3.700, *Definition of ammonia under Federal Caustic Poison Act*, Federal Register, November 30, 1957.

PROHIBITION AGAINST MISBRANDING SHIPMENTS

SEC. 3. No person shall ship or deliver for shipment in interstate or foreign commerce or receive from shipment in such commerce any dangerous caustic or corrosive substance for sale or exchange, or sell or offer for sale any such substance in any Territory or possession or in the District of Columbia, in a misbranded parcel, package, or container suitable for household use; except that the preceding provisions of this section shall not apply—

(a) To any regularly established common carrier shipping or delivering for shipment, or receiving from shipment, any such substance in the ordinary course of its business as a common carrier; nor

(b) To any person in respect of any such substance shipped or delivered for shipment, or received from shipment, for export to any foreign country, in a parcel package, or container branded in accordance with the specifications of a foreign purchaser and in accordance with the laws of the foreign country;

(c) To any dealer when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchases such articles, to the effect that the article is not misbranded within the meaning of this Act. This guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this Act.

LIBEL FOR CONDEMNATION PROCEEDINGS

SEC. 4. (a) Any dangerous caustic or corrosive substance in a misbranded parcel, package, or container suitable for household use shall be liable to be proceeded against in the district court of the United States for any judicial district in which the substance is found and to be seized for confiscation by a process of libel for condemnation, if such substance is being:

- (1) Shipped in interstate or foreign commerce; or
- (2) Held for sale or exchange after having so shipped; or
- (3) Held for sale or exchange in any Territory or possession or in the District of Columbia.

(b) If such substance is condemned as misbranded by the court it shall be disposed of in the discretion of the court:

- (1) By destruction.
- (2) By sale. The proceeds of the sale, less legal costs and charges, shall be paid into the Treasury as miscellaneous receipts. Such substance shall not be sold in any jurisdiction contrary to the provisions of this Act or the laws of such jurisdiction, and the court may require the purchaser at any such sale to label such substance in compliance with law before the delivery thereof.

(3) By delivery to the owner thereof upon the payment of legal costs and charges and execution and delivery of a good and sufficient bond to the effect that such substance will not be sold or otherwise disposed of in any jurisdiction contrary to the provisions of this Act or the laws of such jurisdiction.

(c) Proceedings in such libel cases shall conform, as nearly as may be, to suits in rem in admiralty, except that either party may demand trial by jury on any issue of fact if the value in controversy exceeds \$20. In case of a jury trial the verdict of the jury shall have the same effect as a finding of the court upon the facts. All such proceedings shall be at the suit and in the name of the United States.

EXCLUSION OF MISBRANDED IMPORTS

SEC. 5. (a) Whenever in the case of any dangerous caustic or corrosive substance being offered for importation the Secretary of Health, Education, and Welfare has reason to believe that such substance is being shipped in interstate or foreign commerce in violation of section 3, he shall give due notice and opportunity for hearing thereon to the owner or consignee and certify such fact to the Secretary of the Treasury, who shall thereupon (1) refuse admission and delivery to the consignee of such substance, or (2) deliver such substance to the consignee pending examination, hearing, and decision in the matter, on the execution of a penal bond to the amount of the full invoice value of such substance, together with the duty thereon, if any, and to the effect that on refusal to return such substance for any cause to the Secretary of the Treasury when demanded for the purpose of excluding it from the country or for any other purpose, the consignee shall forfeit the full amount of the bond.

(b) If, after proceeding in accordance with subdivision (a) the Secretary of Health, Education, and Welfare is satisfied that such substance being offered for importation was shipped in interstate or foreign commerce in violation of any provision of this Act, he shall certify the fact to the Secretary of the Treasury, who shall thereupon notify the owner or consignee and cause the sale or other disposition of such substance refused admission and delivery or entered under bond, unless it is exported by the owner or consignee or labeled by him so as to conform to the law within 3 months from the date of such notice, under such regulations as the Secretary of the Treasury may prescribe. All charges for storage, cartage, or labor on any such substance refused admission or delivery or entered upon bond shall be paid by the owner or consignee. In default of such payment such charges shall constitute a lien against any future importations made by such owner or consignee.

REMOVAL OF LABELS

SEC. 6. No person shall alter, mutilate, destroy, obliterate, or remove any label or sticker required by this Act to be placed on any dangerous caustic or corrosive substance, if such substance is being—

- (a) Shipped in interstate or foreign commerce; or
- (b) Held for sale or exchange after having been so shipped; or
- (c) Held for sale or exchange in any Territory or possession or by the District of Columbia.

PENALTIES

SEC. 7. Any person violating any provision of section 3 or 6 shall upon conviction thereof be punished by a fine of not more than \$200 or imprisonment for not more than 90 days, or by both.

INSTITUTION OF LIBEL FOR CONDEMNATION AND CRIMINAL PROCEEDINGS

SEC. 8. It shall be the duty of each United States district attorney to whom the Secretary of Health, Education, and Welfare shall report any violation of section 3 or 6 of this Act or to whom any health, medical, or drug officer or agent of any State, Territory, or possession, or of the District of Columbia, presents satisfactory evidence of any such violation, to cause libel for condemnation and criminal proceedings under sections 4 and 7 to be commenced and prosecuted in the proper courts of the United States, without delay, for the enforcement of the condemnation and penalties provided in such sections.

ENFORCEMENT OF ACT

SEC. 9. (a) Except as otherwise specifically provided in this Act, the Secretary of Health, Education, and Welfare shall enforce its provisions.

(b) For enforcing the provisions of sections 4, 5, and 7, the Secretary of Health, Education, and Welfare may cause investigations, inspections, analyses, and tests to be made and samples to be collected, of any dangerous caustic or corrosive substance. The Department of Health, Education, and Welfare shall pay to the person entitled, upon his request, the reasonable market value of any such sample taken. If it appears from the inspection, analysis, or test of any dangerous caustic or corrosive substance that such substance is in a misbranded package, parcel, or container suitable for household use, the Secretary of Health, Education, and Welfare shall cause notice thereof to be given to any person who may be liable for any violation of section 3 or 6 in respect of such substance. Any person so notified shall be given an opportunity to be heard under regulations prescribed by the Secretary of Health, Education, and Welfare. If it appears that such person has violated the provisions of section 3 or 6 the Secretary of Health, Education, and Welfare shall at once certify the facts to the proper United States district attorney, with a copy of the results of the inspection, analysis, or test duly authenticated under oath by the person making such inspection, analysis, or test.

(c) For the enforcement of his functions under this Act the Secretary of Health, Education, and Welfare is authorized:

(1) To prescribe and promulgate such regulations as may be necessary;

(2) To cooperate with any department or agency of the Government, with any State, Territory, or possession, or with the District of Columbia, or with any department, agency, or political subdivision thereof, or with any person;

(3) Subject to the civil-service laws to appoint and, in accordance with the Classification Act of 1949, to fix the salaries of such

officers and employees as may be required for the execution of the functions of the Secretary of Health, Education, and Welfare under this Act and as may be provided for by the Congress from time to time;

(4) To make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be required for the execution of the functions vested in the Secretary of Health, Education, and Welfare by this Act and as may be provided for by the Congress from time to time;

(5) To give notice, by publication in such manner as the Secretary of Health, Education, and Welfare may by regulation prescribe, of the judgment of the court in any case under the provisions of this Act.

SEPARABILITY CLAUSE

SEC. 10. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

TIME OF TAKING EFFECT

SEC. 11. This Act shall take effect upon its passage; but no penalty or condemnation shall be enforced for any violation of the Act occurring within 6 months after its passage.

APPLICATION TO EXISTING LAW

SEC. 12. The provisions of this Act shall be held to be in addition to and not in substitution for the provisions of the following acts—

(a) The Federal Food, Drug, and Cosmetic Act of June 25, 1938, as amended;

(b) The Federal Insecticide, Fungicide, and Rodenticide Act of June 25, 1947;

(c) The Act entitled “An Act to regulate the practice of pharmacy and the sale of poisons in the District of Columbia, and for other purposes,” approved May 7, 1906, as amended.